

112
IMPARTIAL REFLECTIONS

UPON THE

PRESENT CRISIS;

COMPRISED IN FOUR ESSAYS

UPON THE ECONOMY OF THE PRESENT STOCK OF
CORN.—THE ASSIZE OF BREAD.—TITHES.—
AND A GENERAL SYSTEM OF INCLOSURES.

WITH AN

APPENDIX,

CONTAINING THE SYSTEM OF INCLOSURES

INTRODUCED IN 1732

BY ARTHUR DOBBS, ESQ.

IN THE IRISH PARLIAMENT.

BY

HERVEY, VISCOUNT MOUNTMORRES,

F.R.S. AND M.R.I.A.

*Beatus ille qui procul negotiis,
Ut prisca gens mortalium,
Rura paterna, bobis exercet suis,
Solutus omni fanore.*

HOR.

LONDON:

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AND J. SEWELL, CORNHILL.

1796.

Political

ESSENTIAL REFLECTIONS

ON THE

THEORY OF THE
UNION OF THE
CHURCHES OF
ENGLAND AND
SCOTLAND

BY THE
REV. J. H. W. L. G. S. S.

1850.



PRINTED BY
J. H. W. L. G. S. S.

THE
UNION OF THE
CHURCHES OF
ENGLAND AND
SCOTLAND

THE
UNION OF THE
CHURCHES OF
ENGLAND AND
SCOTLAND

TO THE MOST NOBLE

WILLIAM, MARQUIS OF LANSDOWN,
K. G. &c. &c. &c.

MY LORD,

IN preferring these few sheets primarily to your Lordship's consideration, I shall have certainly the advantage of ushering them to public notice, under the favourable protection of a character justly valuable at this formidable crisis, and deservedly high in public estimation.

My readers will have at least a plausible earnest, that I do not mean to compose transient, light, and fashionable speculations; by submitting them to a judge, not merely distinguished for verbal combination; but, to one who has enlightened the senate by his knowledge, and enlarged the political stock of national and diplomatic information.

Those, my Lord, who are justly conscious of their own merit, can best appreciate the qualifications of other men; trace information from the humblest sources, and ren-

der justice to those, whose labours may be rendered useful to the community.

Such are doubtless the advantages I may expect, when I have the honour of dedicating these Essays to your Lordship.

But, I am at the same time fully aware, that should my humble efforts upon such arduous subjects be inadequate to my intentions, or the execution fall short of my design, of rendering some service to the community in a distressful period ; I must incur that censure so justly due to my presumption ; not only from popular readers, but from those who are best qualified to decide upon the merits or defects of political productions.

I have the honour to be,

Your Lordship's most obedient,
and very humble Servant,

London, March,
1796.

MOUNTMORRES.

PRELIMINARY.

ALTHOUGH it is readily acknowledged, that Ireland is far inferior to this country in Tillage and Agriculture; though her farmers cannot boast the same dexterity, science, or management, in the cultivation of any part of that Island, which almost universally pervade this country: yet there is one remarkable difference between them; that in Ireland, there is hardly a piece of ground that may be profitable for Pasture, Tillage, or Agriculture, that is not fenced and divided, either by ditches, drains, dry walls, or by some species of inclosure.

Since Inclosure Bills are unprecedented, and there is not a single instance of bills of that description, which are so common in England, to be traced in the records of the Irish Parliament; it struck the Author of the following Essays, that some system must have been adopted formerly in Ireland, relative to Inclosures; as natural habits and usages cannot be supposed to arise from chance and accident alone.

This inquiry led the Author to a series of Acts of Parliament, which formed a system upon this

subject, from 1716 to 1732: the result of this accidental knowledge and recent information, will form the outline of the Appendix to this short compilation.

The principal Act upon this subject was framed, introduced, and carried through the Irish Parliament in 1732, by Arthur Dobbs, Esq. Member of Parliament for Carrickfergus; a gentleman well known and distinguished at that period for his Agricultural Tracts, and able Calculations upon political Arithmetic.

Mr. Dobbs was soon after promoted to the Government of Carolina; a designation bestowed upon Ability, as the ministers of that day adopted *a principle similar to the maxim of the late Lord Chatham, to look for merit every where, and to reward it wherever it was found*; a maxim forgotten at least, if not inverted, by the conduct of those, who have had the power, without the qualifications of that great statesman.

In commenting upon the system of inclosing, by a *perambulatory commission* in Ireland, the Author by no means thinks himself competent to form the shadow of an opinion, whether such a system may be adviseable or practicable in any other country.

Local circumstances and local considerations

must have their due influence; nor does it follow, that a system which has answered in Ireland, would be eligible in this great, opulent, and enlightened kingdom: yet still, the Irish mode of proceeding may not be altogether unworthy of notice: since practice and experience are always preferable to mere speculation and abstract theory.

In Ireland, from the few private acts that have passed in former times; (which by an accurate list in the Irish Statute Book, amount only to one hundred and eighty-four, since the first private Act in the 25th of Henry the Eighth, to the end of the late reign) and from the exemption of all turnpike, and appropriation acts for private parliamentary grants, which pay no fees by a regulation in 1760*, and are regarded there as public Statutes;

* Irish Commons Journals, v. 11. p. 946. 15th March, 1760,

The following joint resolutions of both houses originated from Lord Pery, the late Speaker of the House of Commons of Ireland.

“ Resolved, that all bills for applying money granted by parliament for public works; are public bills, and ought to pass without fees.

“ Resolved also, that all turnpike bills, and bills for repairing roads are public acts, and ought to pass without fees.”

It is further to be noted; that there are no private laws for naturalization in Ireland, as there was a general law passed in 1780 for that purpose; of which a statement was given in the letters of Themistocles, p. 183, printed for Hookham, Bond-street; and the act at length was inserted in vol. 2.

The Officers of both Houses are paid principally by fixed salaries, as their fees would be alone inadequate compensations.

It has been *recently* calculated; that *more* than sixty Inclosure Bills only, have lately passed in one year, in the British Parliament. While in Ireland, during the present reign, the number of private Acts, passed in a session, may be averaged at six or seven, at most: hence the necessity of such compensations; at the same time innovations of this sort are to be made here with great caution, as those perquisites are to be traced as far back, at least as the days of the 11th of Elizabeth; in a body of orders then adopted as the usages of Parliament here, by the Irish Parliament,* which were transcribed by Mr. Hooker, a member of parliament in England and in Ireland at that period.

But whatever may be the design of those, who are most competent to form a judgment upon this subject; it would be presumptuous to dwell any longer upon such important matters, which may shortly come under legislative consideration, and occupy the wisdom of Parliament.

p. 410, of the History of the principal Transactions of the Irish Parliament, from 1634 to 1666; printed for T. Cadell, in the Strand.

* Ibid. vol. 1. p. 110. p. 113. p. 121, and 123.

The following Essays will, at least, have brevity to recommend them, and the reflection that much is comprised in a small space. It has always been the ambition of the Author, as a speaker, and as a writer, to comprise much matter in a small compass, to dissipate the vapour of tautology, and to follow the favourite maxim of a great ancient ;

*Quicquid præcipies brevis esto, et cito dicto,
Precipiant animi faciles, teneantque fideles.*

From the eulogium of a country life in Horace, the motto to this compilation, it is clear, that farmers in the Augustan age, were free and exempted from taxes and unnecessary burthens. By the wise policy of Rome (unlike the narrow principles which pervade our conduct in this respect,) neither Tithes nor any similar incumbrance, were imposed upon Tillage and Agriculture.

[to]

ESSAY I.

Dii boni! Nesciunt homines, quantum vectigal sit
parsimonia. C16.

IF it be true, upon an average of returns made to parliament from 1758, that the quantity of foreign corn imported, is less than a twentieth part of the corn produced in England; it follows, that the supply to be expected from abroad is at best so inconsiderable, that it would not lower the price of bread one halfpenny below the present assize.

If this reasoning be true in former years, how much more forcibly does it appear now, at this crisis, when the rigour of the seasons pervades all Europe; and when Holland and Poland, those great European granaries, still smart, and suffer under military desolation?

Thus circumstanced, two remedies only remain—economy of the existing stock; and encouragement of future agricultural productions.

To these subjects I shall devote four humble, but sincere offerings, at the sacred shrine of public welfare: primary objects seem now neglected for secondary pursuits; perplexed by the con-

fusion of European politics, the ministers walk like star-gazers, with their eyes fixed upon the clouds, till their feet betray them into a ditch or a quagmire.

The most obvious and effectual mode of present supply, would be that of executing the laws, whatever they may be, against forestallers and regraters. The effects of such a measure are not merely theoretical; because, in the last great scarcity in 1757, parliament addressed the government in Ireland, to put an old law of Edward IV.*

* *The 8th of Edward the 4th. chap. 2. Irish Statutes,*
vol. 1. p. 35.

An Act against Ingrossers and Regraters of Corn.

“Whereas divers persons, having themselves great abundance of corn, have used to buy in the common market, great store of corn to granell up the same, to sell upon a dearth: and also divers persons called badgers, have used to go to one market, and have bought great store of wheat and corn at one price; and shortly after have taken the same corn to another market, and have there sold it at a dearer price by two-pence or four-pence in the bushel, which hath been the greatest means of dearth within this land; to the great and intolerable hurt of the poor inhabitants of this land of Ireland.

“Therefore be it enacted, &c. that no man having sufficient store of corn of his own, shall buy any sort of corn in the common market; nor that no other person or persons, called badgers, shall buy any sort of corn, in the manner aforesaid, upon such pain, as is made against the regraters of the king’s market.

in execution, and to offer a reward for the prosecution and conviction of forestallers, which had the most salutary effects.

Another scheme, would be that of ascertaining by chemical analysis, or medical inquiries, what are the cheapest grains, and most nutritious aliments; whether they may be barley or potatoes; and recommending them to governors of work-houses and charitable institutions: as the state has an undoubted right, to prescribe a mode of subsistence for those who are supported by public bounty.

“ And that it shall not be lawful to any man, of what condition soever he be, to buy any sort of corn in the common market, to sell the same again in the same market, nor in any other market; upon pain of being judged in law, a common regrater.”

This is the only law against this offence on the Irish code, and it is observed by Sir William Blackstone, that all the laws in England against forestalling and regrating were repealed in 1772-3 by the 12 G. 3. c. 71. but that these offences were always, and are still punishable at common law, by fine and imprisonment at the discretion of the court.

The English common law and all English statutes antecedent to 1495, were adopted by an Irish law of the 10th of Henry the 7th, c. 22. *intituled an Act for confirming all the Statutes made in England.* *Irish Statutes*, vol. 1. page 56. 12th edition of Blackstone, by Mr. Christian, vol. 4. page 158.

This recommendation might also extend to voluntary donations, upon the compulsion which irresistible arguments, founded on experience, produce—that much mischief was effected last summer by injudicious subscriptions, which raised the price, and increased the consumption of corn.

Experience suggests, that labourers and the lower classes will always purchase and consume the best and whitest bread that can be procured; hence there is a necessity of making *one species* of bread, and no other, for the rich and the poor: and compelling the conduct of the first classes, to be an example to the lower ranks of the community.

It is related that Charles the Twelfth quelled a mutiny in the Swedish army, before the fatal battle of Pultowa, by a similar example: a soldier presented him with a piece of musty bread, asking him whether it was fit for human subsistence. The king immediately chewed it with difficulty, and when he had swallowed it; said, my friend, it is eatable, though not palatable.

The greatest, however, of all encouragements for future product and agricultural improvement, would be a general Inclosure Bill; tilling of wastes, commons, and crown lands; a fair equivalent for the tithes of lay and ecclesiastical impropriators;

to which last subject I shall devote an essay ; conceiving that this tax, upon that industry which feeds mankind, should be repealed ; and that drones should not absorb and devour, a large portion of the honeycomb.

ESSAY II.

Natura pauca desiderat—opinio immensum.

SEN.

ALTHOUGH accurate information upon the subject of corn, cannot be expected from those who are neither engaged nor interested in that trade ; yet still the speculations of men who consider important questions, upon liberal and scientific ground, may be of great service to the community.

Truth is thus invited to appear, and emerge from her usual residence, between the extremes of contending parties ; private jobs cannot lurk here, under public professions ; nor can the interests of contractors be promoted, under the ambuscade of national improvement and prosperity.

Happy is it for the community, where great political questions are treated with that impartial regard to truth, attendant upon mathematical problems and solutions—such views pervade these Essays; and upon such claims, if well founded, they may be rendered deserving of public attention.

The first great object at the present crisis, is to legalize only one species of bread, composed of the whole heart of the wheat, of the substance of the hull, or bran also; in a word, of the entire product of the grain, without any unnecessary refinement or subtraction.

This plan was recommended by a most liberal and able writer on this subject, in 1772-3; refuting various prejudices about the purgative quality of bran; demonstrating this assize to be the fairest, and the bread the cheapest, most nutritious and salutary that could be fabricated.*

* The pamphlet alluded to, in this Essay, was written by that celebrated philanthropist Jonas Hanway, Esq. intitled *The Great Advantage of eating pure and genuine Bread, comprehending the heart of the wheat with all its flower, &c.* printed in 1773, for Messrs. Woodfall, Charing Cross; in which he recommends the plan recently suggested by the City of London to a great Assembly, viz. to make a compulsory arrangement, for one species of bread, composed of the heart of the wheat, with as little subtraction of bran,

One popular delusion is there most happily refuted in those who mistake a colour for a quality ; or in plainer terms, who confound the mere whiteness, with the essence of bread, and pay most, not for its goodness, but for its complexion—a prejudice artfully suggested by bakers for interest, that leads to the noxious mixture of stale flour and of alum, which pernicious and poisonous ingredients engaged, in 1749, the attention of Parliament.

The general conclusion he draws is shortly this—that the colours of white or brown indicate no essential excellency—that whatever the complexion of bread may be, it should contain the heart, as well as the shell of a grain of wheat—that this bread would be the cheapest—that no part of the grain would thus be lost—that it would be wholesome for the rich, nourishing for the labourer, and the bulk of the community.

and as little waste of the shell or hull of the grain as possible, for all ranks of the community.

Mr. Hanway has thus demonstrated the unity of truth : since, at different periods, common sense and well informed men meet on the same principle ; and the rays of intelligence terminate in the same *focus*.

The Author was esteemed *then*, more for his benevolence, *than for his sagacity* ; and passed *for a good sort of a man* ; a rude and saucy term, assigned too often to valuable characters, who have not the animal instinct of those ignorant coxcombs, by whom it is applied, to consult solely and exclusively their own private interest.

It is from the different species of bread that have been made under two acts, of Queen Anne, and of the late King, that complaints have arisen in calamitous seasons—while a fine bread is made from the choicest flour for the rich and luxurious, and the offal is reserved to be baked for the poor; the complaint may be then realized, which Shakespeare assigns to the Roman people—

“ We can make our audit up,
That some from us, do back receive the *flour* of all,
And give us but the *bran*.”

But this complaint can no longer prevail, when the example of the rich and great shall become a lesson to the low and indigent. When the recommendation of the City of London shall have its due weight, and no more time shall be lost by a great Assembly, in a wise precaution against an impending, urgent and increasing calamity.

ESSAY III.

——— Agmine facto,
Fucos ignavum pecus, a præsepibus arcent.

VIRG.

THE argument originally used by Swift, instrumental in rejecting a bill in 1735, for establishing a modus or composition for the tithe upon hemp and flax, in Ireland, is often pressed; and so frequently urged, as almost to become a maxim. *That if tithes were abolished or lessened*, farmers or tenants would not be benefited thereby, because, landlords would raise their rents in proportion.

With due respect for a great authority, this specious argument, may be thus easily refuted.

Landlords usually lease their grounds at a certain rent, for twenty-one years, or a certain term; the tithe impropiator, on the contrary, demands annually a tenth, in proportion to the increased production—or, in plainer terms, if potatoes were produced one year, and pine-apples the next; the right to, perhaps, the demand for tithes, would be raised accordingly.

Thus circumstanced, it must be admitted, that

tithe is a demand vexatious from this uncertainty; burthensome to farmers, absorbing the interest of the money expended by tillers and cultivators of the soil—a tax upon that industry which feeds mankind—and demonstrably operating as a bounty on pasturage, to the prejudice of agriculture.

If a farmer were to acquire twenty shillings in the produce of a farm grazed with sheep, the fleece alone, which may be estimated at five shillings, or a fourth part, would alone be subjected to tithe; and sixpence would be all that he would pay to the impropiator.

But if he were to gain twenty shillings by the production of corn, he would be liable to a tithe of two shillings—Hence it is evident, that in the first instance, he would pay only sixpence, in the latter case, two shillings—four times as much in one instance as in the other—therefore, tithe operates as a bounty upon pasture, and as a discouragement and subtraction from agriculture.

So many difficulties arise in a fair substitution for tithes, that these common arguments are generally urged:—"Inconveniences are acknowledged, but propose your remedies—Let us not pull down a house, till we have a plan to rebuild the structure."

To these specious objections, it may be briefly answered—that what has been done in one country may probably be effected in another—that the Scotch Parliament, in 1706, established a fair equivalent for tithes, by enabling the Court of Session to value Teinds (as they are called *there*) to raise a contribution from the heritors, or landholders in each parish, and to allot a permanent fixed stipend, for a pastor in every district.

But if this scheme should be deemed a violent innovation elsewhere, where would be the injustice of obliging impropiators to lease their tithes for a term of twenty or thirty years, like landlords in most parts of England, at a fixed rent, and of rendering such leases binding and obligatory, upon future incumbents and their successors?

If tithe impropiators were thus obliged to follow the usual practice of landlords, the property of the clergy and of the laity would be upon an equal footing; nor would the annual improvement of the farmer, or increasing ingenuity of the cultivator be subjected to a yearly increase or a greater demand, in proportion to a larger production.

These conjectures (for such only they are and no more, upon an arduous and intricate subject) are sufficient to prove, however, that a beneficial

arrangement and substitution for tithe, if it should come under the contemplation, and occupy the thoughts of abler and better informed men, would not be liable to the presumed and imaginary difficulties of a fair equivalent, for this inconvenient mode of providing for the clergy, and the embarrassments of tithe impropiators.

In the preceding Essay upon the present scarcity, it was observed: that upon our economy and discreet management of our present stock of grain, this country must depend, since little aid must be expected, even from a large bounty upon importation.

To which it may be subjoined—that the cultivation of waste lands; a general inclosure bill;* with a fair equivalent for tithes; would form the true and only certain precautions against future scarcity.

It is well known, that the greatest genius that time has produced, devoted his powers to agriculture, for as many days as there are lines in his Georgics.

An object, well worthy of the greatest abilities

* A general system of improving, inclosing, and appropriating marshes and waste lands, were by laws in 1716, 1722, and in 1732, adopted in Ireland.

and brightest talents ; since even Rome herself, to whom the rest of the ancient world was tributary or subjected ; was thus taught to derive her principal subsistence from the tillage of Italy, and from the cultivation of her own immediate surrounding territory.

Tithes are the grand obstruction to national improvement, to agricultural amelioration—where the lazy idle drone devours a large portion of the labours of the sedulous insect, and of the product of the industrious bee.

Whoever would devise a fair equivalent for this tax upon that industry which feeds mankind, and for which, substitutions have been timely and wisely adopted in other countries, would merit an honour similar to that paid by the Roman people in the public theatre ; to the Poet, the restorer of industry, and of agriculture.

ESSAY IV.

Pœna viginti aureorum, statuitur adversus eum qui contra annonam fecerit—Societatemve coërit, quo annonæ carior fiat. JUSTINIAN.

AFTER having, in the preceding speculations, expatiated upon the present scarcity; upon a system relative to legalizing only one species of bread, similar to that which was in contemplation in 1772-3; and offered some humble considerations upon the arduous subject of tithes; it remains now to terminate these Essays with some general remarks, and to infer from the foregoing premises, fair, useful, and beneficial conclusions.

If it be true, that we can expect less than a twentieth part of our annual consumption in good seasons; it follows, that at periods like the present, rigorous throughout Europe, for natural and artificial reasons, little or no corn can be had from importation.

Hence, economy is indispensable, and the diminution of the number of draught horses; which, it is conceived, might be considerably abridged, by the two following propositions, if they should be adopted:

The first is, by a system for the true mechanical construction of carriages. It has been lately proved, that if a horse draws upon an angle of twenty-five degrees, or in a straight line; that in the former case, he would have an advantage of one fourth—in plainer terms, that three horses, thus drawing and harnessed obliquely, will perform the work of four horses drawing in a direct line—a principle which the French have applied to common carriages, as well as in their artillery. Reducing this matter to a legal and mathematical standard, (if the proposition be true) would save a fourth part of the draught horses now used in this country.

Those who wish for conviction upon this subject, may see it verified in an entertaining course of Experimental Lectures in Natural Philosophy.*

Whenever mathematical science is introduced to ascertain political regulations, permanent criterions and unchanging standards are generally adopted. Thus the standard of our gold coin, adopted by Parliament from a representation of Sir Isaac Newton, in 1717, has not varied from that time, nor probably will ever differ from a system founded upon the unerring principles of

* Mr. Walker's Lectures. Vide the Crisis, printed for Hookham, Bond-street; No. 41. p. 223, upon the mathematical construction of carriages.

truth and mathematical precision, adopted by that divine philosopher.*

The second mode of diminishing the number of draught horses now used in England would be, to arrange the new tax upon them, so as to effect teams of horses, in ploughs principally, which would necessarily introduce ploughing in general with oxen—a system which would be attended with the greatest public advantages: and by these two regulations, a third, if not one half, of the draught horses would be saved, and their food might be applied to public exigence; while the overplus of redundant horses, would form a lucrative article of exportation.

Since all countries must form regulations adapted to their local circumstances, systems which prevail elsewhere cannot be adopted as exact models in this kingdom: but since practice is preferable to mere theory, the general plan of inclosure in Ireland may deserve some attention.

In Ireland inclosure bills are unknown.—The practice there has always been, at least since 1716, to inclose under a general perambulatory commission, acting under the injunctions of the two courts of equity.† What expences might have

* English Commons' Journals, v. 18. p. 665.

† Inclosures have generally prevailed in Ireland, under

been saved to England by a general inclosure bill, had it been obtained here since the reign of George the First, as it had in Ireland,* may be collected from this curious fact—that the number of those bills amounts to upwards of sixteen hundred, since the first inclosure act in the reign of Queen Anne.

It seems to be reasonable that waste lands should be exempted from tithes, for a certain period from

two laws, viz. the 2d. of Geo. I. c. 12. the 8th of Geo. I. c. 5. and 5 Geo. II. c. 9. abridged in the Appendix.

* There was no instance of an inclosure act in the reign of King William. The following is an accurate calculation of the number of inclosure bills since the first, in the reign of Queen Anne.

Inclosure Bills.—Anne	-	-	1
George I.	-	-	17
George II.	-	-	182
George III. to 1775	-	-	702

And if the same number be allowed from 1775	702
to 1793, the total will be	1604

N. B. This calculation was extracted from Mr. Chalmer's Estimate, page 127, one of the most accurate, useful, and valuable works that has appeared in this or in any other country. By Sir John Sinclair's Report, the number of inclosure acts passed since the first upon record, in the eighth year of the reign of Queen Anne, amount to eighteen hundred and forty, to the end of the last session of the British Parliament. More than sixty will be added in 1796, it is said; so that the total next year, will exceed nineteen hundred inclosure bills,

their tillage: a principle adopted formerly in France, where the exemption for thirty years, was known by the title of *La Dime de Novale*, or tithe upon fallow grounds.

But, having dwelled upon this subject in a preceding Essay, I shall no longer enlarge upon it, or occupy an unreasonable space by fashionable repetition.

The last consideration which occurs, is putting the doctrine of common law in force against fore-stallers and regraters. I say the principle of law, whatever it may be, because all the statutes upon this subject were repealed, * unfortunately, in 1772-3—perhaps to answer the temporary purpose of a job, or of an interested contractor; laws, which it is conceived ought to be revived, because similar regulations occur in the wisest periods, and have originated from the most enlightened legislators.

Such was the policy of Rome, in subjecting forestallers to heavy fines. The rule copied from the Pandects of Justinian, forms the motto to this Essay.

While the law of Edward the Sixth, fatally repealed in 1772-3, originated from a calamity simi-

* By 12 G. III. c. 71.

lar to that which prevails at the present crisis, and was framed during his regency by that great benefactor to the community, that patron of the lower classes of the people, in a word, by the *poor man's friend*, the Protector Somerset.

Subjects like these are surely far better deserving of ministerial consideration than forms of Gallic government, or the manufacturing a French king by British subsidies. If the aphorism be true, that a man who causes a blade of grass to grow where none was produced before, has great merit ; how much better deserving our regard are those genuine benefactors, than all the political declaimers and metaphysical dreamers that ever existed. "Mankind," says Tully, "never approach nearer to the Divinity, than when they are providing for the safety of their fellow-citizens."

These are, however, but remote conjectures upon arduous and intricate subjects. And so I take my leave of these speculations ; hoping that they may shortly occupy the attention of wiser, of abler, and better informed men. Thus I consign them to publicity at least ; and dedicate this humble valedictory offering, at the sacred shrine of public welfare.

* * * * *

SUBSEQUENT REMARKS.

Since these Essays were composed, some very valuable remarks have appeared, from Count Rumford, relative to the house of industry erected in Munich; and an establishment for the poor in Bavaria; with several statements upon the economy of food and fuel; which may be of great service at this formidable crisis in England.

In consequence of Count Rumford having stated to the author, that an actual enumeration had been made of the people in Bavaria, which he thought a necessary antecedent measure to an establishment for paupers, in every country; the following curious article was communicated to him, by the author; which appeared afterwards in a morning paper of January 1, 1796.

In the sessions of 1753-4, a very important bill relative to an exact enumeration of the people of

England, in all the parishes, hundreds, counties, &c. was rejected at the third reading in the House of Commons, for some whimsical superstitious reason then prevalent.

The bill, which had been printed, was introduced by Mr. Potter, son of the learned Archbishop, the author of the Grecian Antiquities, by whom it was said to have been framed.

Since all estimates of the comparative wealth and progressive improvement of nations, depend upon these statements, it must appear extraordinary that political arithmetic should be still, from the want of such documents, only a probable approximation to truth, and at best vague and uncertain.

In China, every man is obliged to suspend a board over his door, with the number of persons in his house and family, their conditions, &c. under severe penalties: and some calculations made from the statistical accounts, published annually by the government at Peking, will form, it is said, a most interesting part of the narrative of the learned Secretary of Lord Macartney; a work lately announced to be progressive, and which has been long ardently expected.

From these accounts, it is said, that the population of China amounts to the enormous total of

three hundred millions. Hence, they are enabled to watch over the conduct of the inhabitants, to establish a rigid police, and wisely prevent severe punishments, as every man must thus account, in some measure, for his course of life, and habitual occupation.

These national enumerations accord with the early and primitive institutions of the wisest nations of the ancient world.

From Herodotus it appears, that in Egypt every man was obliged to declare before the governor of his district, by what means he maintained himself; a law derived from thence, and introduced by Solon at Athens.

Under the Roman commonwealth, the people underwent a lustrum or enumeration, every five years; hence the word lustrum, as synonymous for that term; and it appears to have been adopted thus, proverbially, by their most celebrated poets and historians.

With the foregoing article, a small tract was sent, containing a scheme submitted in July, 1697, by Mr. Collis and others, to the Board of Trade, for

building houses of industry in each county, for instructing and maintaining the poor of Ireland. With Mr. Locke's opinion thereupon, when he was a lord of trade in 1697, soon after the institution of that board.

This last article had been previously communicated by the author to the Earl of Charlemont, the President of the Royal Irish Academy.

APPENDIX.

THE system of improving draining, fencing, and inclosing farms and waste grounds, alluded to in the preceding Essays, is contained in a series of laws from 1716 to 1732, in Ireland, and will be found in the four following sections.

The first section is an abridgement of the 2d Geo. I. c. 12. *intituled, an Act to encourage the draining and improving of bogs and unprofitable grounds, and for inland carriage, &c.* but as this act is very long, consists of twenty-two folio pages, is combined with inland navigations, and other matters extraneous to the general purview of the statute; a summary abridgement of it only, will be found in the first division.

In the second section, a more ample abridgement is given of the 8th of Geo. I. c. 5. *intituled, an Act to oblige proprietors and tenants of neighbouring grounds, to make fences between their several lands and boldings.*

But, in the 3d section, a more full and ample detail will be found, of the most important statute upon this subject, the 5th of Geo. II. c. 9. presented in the House of Commons by the celebrated Mr. Dobbs, and *intituled, an Act to encourage the improvement of waste lands and bogs, and for planting of timber trees and orchards.*

As the two last clauses of this law gave encouragement to tenants planting trees, it was thought expedient to subjoin a conclusive section; comprising in a summary detail, all the encouragements given by various laws, since 1698, for planting and preserving trees in Ireland, to the statute in 1791, which either in itself, or by recital or reference, comprises all the system for those purposes now existing; a law which confers great credit, and reflects the highest honour, upon the wisdom, precaution, and patriotism of the *Irish Legislature*.

SECTION THE FIRST.

THE first act alluded to in the foregoing Essays, is the 2d Geo. I. c. 12. Irish Statutes, v. 4. p. 356, which declares in the preamble; that whereas, great tracts of bogs, fens, and waste grounds, which incumber the midland parts of the kingdom, are not only a loss to the owners, but injurious to the health of the inhabitants of the adjacent territories, and by a survey and estimate, are fit to be improved:

Therefore be it enacted, &c.; that commissioners (therein named) shall be appointed to drain, and to make roads to communicate through the said lands, from one district to another: with powers to appoint agents to make the Shannon navigable.

The second clause appoints a commission of the members of parliament, and justices of peace in the vicinity, or seven of them before named in the act, to settle differences, decide disputes, and to adjust and apportion expences; to apply to sheriffs, to appoint juries to value damages, and assess them upon the inhabitants.

The third and fourth clauses provide, that no commissioner shall act where he is concerned in his own property: and £50. per annum shall be the qualification of such persons, as may be appointed successors to the existing commissioners.

The fifth clause assigns certain tolls of 3*d.* a mile for a 100 *lb.* weight of merchandize, freighted and carried in boats on the Shannon, to the undertakers.

The sixth, seventh, eighth, ninth, and tenth clauses contain powers to levy the said tolls, and make the necessary arrangements.

The next three clauses relate to making the Shannon navigable: and the remaining eleven clauses of this *long* act, contain the arrangements necessary to make *seventeen* rivers therein named navigable also: if the navigations are not completed within seven years, the undertakers shall lose the benefit of the tolls.

By the last clause of this act, every species of manure, transported by navigable rivers, are exempted from tolls.

While materials for building, are subjected to a

moiety only, of the accustomed tolls and imposts.*

SECTION THE SECOND.

The next act alluded to in the preceding Essays, is the 8th of Geo. I. c. 5. Irish Statutes, v. 5. p. 21. *to oblige proprietors, tenants of neighbouring lands, to make fences between their several lands and boldings*: which declares that, whereas many trespasses arise between proprietors of lands about mears and bounds; which heretofore could not be effected by the equal expence of the neighbouring parties.

Therefore be it enacted, &c. that from 1 Feb. 1722, if any proprietor, tenant, or occupier of any lands in Ireland, shall be desirous to make ditches or fences, to grounds where no title has been contested for three years before :

The parties shall be at equal expence: make quickset hedges, and ditches six feet wide, and five deep, where it is practicable; and where white

* By a most admirable regulation in 1789 all the navigations in Ireland will soon be completed, and canals made exceedingly useful, and practicable. This was effected by a grant of £200,000: a third part of the sum was to be advanced by parliament, to an undertaker, who would engage with proper security, to expend the other two thirds, necessary to complete a navigation, in an assigned period.

thorn, crabs, or other quicksets will not grow, with furze; and where neither will grow, or ditches of great depth, &c. cannot be made, with a dry stone wall; or if stones cannot be had, with a wall of mud, or clay, five feet high, and two and a half thick at bottom; and with sufficient drains in low grounds: the banks to be planted with alder, or other aquatics;

And if such owners, tenants, occupiers, &c. shall refuse, upon due application, to make such fences for a year, they shall be compellable by a bill in equity, and a *commission of perambulation* to settle and ascertain the bounds between their holdings. The party requiring, may make the said fences; and the party refusing, shall pay to him the moiety of his expences; to be recovered by a common action of debt, or if under £ 10. by civil bill (or a summary process used in Ireland under a law of the 9th William III. c. 15. before a justice of peace), and if in the county of Dublin, before the justices at the quarter sessions. By the second clause, one shilling and sixpence is to be expended for walls, and one shilling for ditches, and no more, by the perch.

By the third clause, if the tenant be at will, or for only eleven years, he may deduct the said sums from his rent due to his landlord; and by the fourth clause, only a fifth part of his holding is to be fenced in a year.

By the fifth, sixth, seventh, and eighth clauses, bounds may be made straight, with consent of parties,

or of the landlord and tenant duly attested, provided that no house, garden, or wood, be inclosed therein: proper deductions are also allowable, to countervail differences, and disproportions made by such inclosures; and such exchanges and agreements to be valid, not exceeding, however, two acres in a hundred perches of inclosures, and the said fences are to be repaired at their joint expence.

By the ninth and tenth clauses, covenants for fencing, between landlords and tenants, are to remain valid; and tenants receiving allowances from the former, for keeping fences in repair, shall give bonds for the due execution of such agreements.

By the eleventh and thirteenth clauses, lands are excepted which do not pay the landlord 2s. an acre, over and above the quit-rent:* and no more than a twentieth part of the annual rent shall be expended in inclosures.

By the eleventh proviso, the inclosure cannot be less than ten Irish acres, plantation measure: and by the twelfth, such inclosures shall not settle, and be binding to decide the right of property, without the consent of proprietors, attested by three

* Almost all the lands of Ireland have been forfeited, and are liable to a quit-rent to the crown, from about two-pence to four and five pence an acre: the Irish is to the English acre as eight to five: and the operation of this act has been so considerable, that there are hardly any farms to be seen in Ireland, that are not inclosed.

witnesses ; or by the landlords suffering the said fences to stand for five years, after the termination of the leases ; or in the case of legal disabilities, within five years *after* such disability is removed.

SECTION THE THIRD.

THE operation of this law has been carried into still further effect by the 5th Geo. II. c. 9. Irish Statutes, v. 5. p. 512, of which clear and short act the following is an abridgement, which the author has rendered more ample than the preceding, as it is of most importance.

The act declares, that whereas there are great tracts of unprofitable bogs and low grounds, overflowed by rivers, loughs, and the sea, which might be taken in, drained and improved, if the property thereof was settled, and due encouragement given thereto :

Therefore be it enacted, &c. that where any person shall be possessed of any lands contiguous or adjoining to any bog, moss, or lough, or to ground between the flux and reflux of the sea, and shall be desirous to settle the bounds thereof, with the proprietors of such adjoining lands :

Such person may exhibit an * English petition

* It is conceived that this related to the usual processes of the courts of law in 1731 ; which in Ireland, as well as in England, were in Latin till about this period ; this was an exception to a general rule, as all proceedings in courts of justice in Ireland, were ordained to be in the English lan-

in the chancery * or exchequer, against the said proprietors, desiring the respective bounds to be ascertained ; and, upon proof of thirty days service, the court may issue a commission to *seven*

guage in 1738, by the 11th of G. II. c. 6. Irish Stat. v. 6. p. 407.

* The principle of empowering the chancery to issue commissions for arrangements and distributions of waste lands, is to be traced as far back as the year 1556: in an Irish law of the third and fourth years of Philip and Mary, c. 3. intituled, *an Act to convert and turn divers and sundry waste grounds into shire grounds.* Irish Stat. v. 1. p. 244.

This law recites, that great disorders and riots prevailed in grounds which were not held to be within the limits and jurisdiction of counties subjected to the English laws, &c. Wherefore it empowers the lord chancellor to issue commissions to any number of persons to survey such waste lands, to establish limits, and to make them shire-grounds : that is, to comprise them within the limits of certain districts and counties.

This law, however, is best explained by a law in the antecedent reign ; the 13th of Hen. VIII. c. 3. wherein it is recited, that there were only four shires or counties where the king's laws were in force ; or as the phrase is in the act, where the king's laws were occupied in this land, viz. Dublin, Uriel or Lowth, Kildare, and Meath, afterwards divided into East and West Meath ; which district was called in that reign the English Pale ; to which, in the next reign, Leix and Offaley were annexed, and called the King and Queen's Counties. History of the Principal Transactions of the Irish Parliament, from 1634 to 1666, printed for T. Cadell in the Strand, v. 1. p. 43. Sir John Davis's Discovery, &c. p. 188.

By the 11th of Elizabeth, c. 9. similar powers were given to the chancery, and the provisions of the statute of Philip and Mary were farther extended.

or more persons to examine witnesses, and, by the verdict of a jury summoned by them, to ascertain the old bounds; and if no such mearing or limit can be traced, to ascertain the proper bounds between the parties, with due attention as to the extent of profitable ground, &c. in the neighbourhood.

The commissioners are to return such decision to the court, which may issue orders to alter, confirm, and set aside, or renew the said commissions: if no complaint be made to the court for thirty days, against such decision and award; and if it be confirmed by the court, it shall be valid, and binding upon all parties concerned.

The second clause enjoins, that the jury aforesaid shall be chosen from a return of twenty-four, against whom, the ordinary lawful challenges are allowed.

By the third and fourth clauses, upon the refusal of one party to make proper drains, ditches, &c. the other party may inclose, and claim his share of the expence by an action of debt, according to a certain prescribed regulation, and valuation of one shilling and six-pence a perch to be expended in inclosures: and not more than ten pounds in a year.

By the fifth clause, the following important arrangements are made: In case such proprietors of lands in the aforesaid predicament are only tenants for life or years:

Such tenant shall hold lands so reclaimed, till they shall be paid the following sums :

If he holds for a term of less than seven years, till he be repaid *all* the sums expended.

If seven years only of his lease are unexpired, then three parts in four of the expence.

If one life only remain, or if he holds by courtesy, dower, or for fourteen years, two parts out of three.

If two lives, or twenty-one years, a fourth ; but if he holds for three lives, or thirty-one years, then no allowance shall be made for such ditches and fences to the holder, when his lease shall be determined.

The sixth clause, contains a very important encouragement, namely : That such land so inclosed, and all barren heath, and mossy ground, mountain, bogs, morasses, and land taken in and inclosed from the sea, or any lough, which by drains, banks, walls, or dikes, shall be improved and converted into arable or meadow lands, shall be exempted and discharged from tithes for any hemp, flax, or rape, growing thereon for seven years from the inclosure ; provided such lands never paid tithes before, for corn, hay, hemp, flax, rape, or potatoes.

SECTION THE FOURTH.

CONCLUSIVE OBSERVATIONS.

This law of the fifth of Geo. II. chap. 9. was framed and presented by Arthur Dobbs, Esq.* representative in 1732 for Carrickfergus, who was afterwards governor of Carolina : a distinguished character, eminent for some able tracts about that period, upon political arithmetic.

The two last clauses of this law, which has been so extensively beneficial, by whose operation almost all the arable and productive ground in Ireland has been inclosed, and appropriated ; contains two final provisions relative to trees ; which, though foreign to the general purview of this statute, yet they deserve particular notice, as they involved an account of all the encouragement given antecedently, to tenants for planting trees ; and lead to the admirable planting system lately adopted, which reflects so much ho-

* February 24, 1731, Irish Commons' Journal, vol. 6. p. 166. An engrossed bill, intituled, *an Act to encourage the improvement of barren and waste land and bogs*, was read a third time.

“ Resolved, that the bill do pass ; ordered that Mr. Dobbs do carry the said bill to the lords, and desire their concurrence thereunto.”

nour upon the wisdom and liberality of the Irish Legislature.

The ninth clause recites, that whereas a law made in the 8th of Geo. I. to repeal an act of the tenth year of King William; for preserving trees, and encouraging the planting thereof, by which one-third part is given to the tenant or persons that shall plant the same: by this act one-half, or a moiety, instead of a third, shall be given to the farmers or tenants who shall plant trees.

For the encouragement of planting orchards, by the tenth and last clause, for every pear and apple tree well fenced, and duly preserved; which shall be profitable at the end of the lease, or term granted to a tenant planting the same; there is, besides, to be paid the sum of one shilling by the landlord, at the expiration of the lease: to be recovered by a summary process, or, as it is called in Ireland, by civil bill, or by a common action of debt in the king's court of common law.

By the 17th and 18th sections of the first of Geo. II. c. 18. bishops and other ecclesiastical persons seised of woods, are allowed to make bargains with their tenants, to inclose coppices, to preserve the after-growth of trees, save young plantations from cattle; and to give a third part of the woods so preserved, when it is *felled*, to those who shall enter into such agreements.

But in the year 1765, a farther encouragement was given by a statute, vesting the whole property

of trees planted by the tenants, and registered at the quarter sessions in them, with a right to fell the same, saving only to the landlord the right of buying the said trees for the full value, to be estimated, if a dispute should arise upon their worth, by a jury of the neighbourhood.

The law passed in 1791, however, contains in itself, or by reference, all the system now existing in Ireland; for the preservation of trees, and encouragement of planting, and therefore as it is very short and clear, though ample, coercive, and comprehensive in its provisions, it is inserted here, with a short comment, containing the history of its commencement, the reason and necessity of its adoption.

A law had passed in 1775, whereby all persons cutting or lopping trees without the owner's leave, were subjected to a fine of five pounds, or six months imprisonment, to be awarded by a justice of peace, upon just evidence and conviction.

This law not having named tenants, trespassers sheltered themselves under their leases, and claimed a common law right, countenanced by the great legal oracle, Sir Edward Coke, as they alleged, of cutting trees as *estovers* for *bouse bote*, *cart bote*, and *plough bote*, or in other words, for farming purposes.

This claim having been made, it was contended that the act in 1775, did not apply to tenants, and that landlords must have recourse to an injunction

from a court of equity, to prevent and impeach waste: and that their remedy was by a writ of *ad quod damnum* at common law.

The author having been a great sufferer by such depredations, in his woods and plantations, for which the principles of the law, then in being, did not afford a competent remedy, presented* a bill in the House of Lords, to comprehend tenants in the general design and purview of the law in 1775 in future, in common with other trespassers.

This law met with violent opposition in that assembly; where the doctrine of Sir Edward Coke was warmly espoused and strongly contended for, by a great law officer;† but it passed by a considerable majority after four long debates.

When it was transmitted to the House of Commons, it was conceived that as it recited a clause in a former law, inflicting a penalty, it could not be read a second time in that House, as it was contrary to the privileges of the Commons, that a law imposing or even reciting a pecuniary penalty should originate in the House of Lords; and therefore, the bill was unanimously and indignantly rejected.

Great apprehensions, however, being entertain-

* By the construction of the 23d standing order; a Lord of Parliament has a privilege of presenting a bill without asking leave, and it is regularly read through, for the first time, without *debate*.

† The Earl of Clare.

ed from the rejection of this bill, and the doctrine laid down in the House of Lords: a new bill was introduced in the House of Commons, and passed both Houses without opposition.

This new bill which is inserted below, was rendered much stronger in its provisions, and more coercive than that which had been rejected; and, as the author was then absent, and wishes to claim no other merit than what is justly due, and may be fairly claimed and proved; it is with delight he dwells upon the merit of a friend, a real patriot, and a sincere well-wisher, and zealous promoter of the interest of Ireland, the late Samuel Hayes, Esq. who framed the bill in the House of Commons. A gentleman, ~~of~~ whose worth and general estimation, posthumous tribute of genuine regard and affection to his memory is so justly due. Mr. Hayes has left a work similar to Evelyn's Sylva, upon planting, and the profit and advantage to be derived from trees, to the planter as well as to the community. A work which will prolong the memory of that amiable and deserving man, and perpetuate his services to Ireland.

The following is the law alluded to, which contains by itself, or by reference, all the laws relative to planting and the preservation of trees, reflects the greatest honour upon the wisdom, liberality, and foresight of the legislature, and will hereafter, if duly promulgated, produce the happiest effects in Ireland.

L^o
a

Anno Regni tricesimo primo Georgii III. Regis.

An Act for the preservation of Sbrubs and Trees.

“ Whereas the several Acts passed from time
“ to time in this kingdom, for the encouragement
“ of planting, cannot attain the great and desir-
“ able ends proposed by them, unless effectual
“ regulations be made for the preservation of trees
“ when planted; be it enacted by the king’s most
“ excellent majesty, by and with the advice and
“ consent of the lords spiritual and temporal, and
“ commons in this Parliament assembled, and by
“ the authority of the same, that no person what-
“ soever, holding, or who shall hold any lands in
“ this kingdom by lease for one or more lives, or
“ for years, or by will or sufferance, shall cut
“ down, grub up, lop or top any tree, wood, or
“ underwood, growing upon the lands so held,
“ under colour of estovers, or of house-bote, plow-
“ bote, hay-bote, cart-bote, or any other bote
“ whatsoever, or under any pretence or cause
“ whatever, unless so far as such person shall be
“ authorized thereto, by covenant in the lease,
“ under which the said lands are or shall be so held,
“ or unless such person shall have the consent of
“ the owner or owners thereof, under his, her, or
“ their hands and seal for the purpose.

“ 2d. And be it further enacted, that if any per-
“ son so holding land shall offend herein, such per-
“ son shall be subject to the penalties enacted

" against persons who shall wilfully cut down,
" pluck up, lop, top, or otherwise damage any tree,
" without the consent of the owner or owners
" thereof, first had in writing.

" 3d. And be it further enacted, that no such
" person, in whose possession there shall be found
" any tree, or any kind of wood, underwood, poles,
" sticks of wood, shoots, or young trees, so cut or
" grubbed up, contrary to the provisions of this act,
" shall be deemed by any justice of the peace to
" have come fairly and honestly by the same,
" within the meaning of an act passed in the 15th
" and 16th years of his present Majesty's reign,
" intituled, an Act for encouraging the cultivation,
" and for the better preservation of trees, shrubs,
" plants, and roots, or within this present act.

" 4th. And be it further enacted, that every
" justice of the peace who shall wilfully refuse or
" neglect to act as a justice of the peace, upon any
" complaint touching the offence aforesaid, or any
" offence against the said recited act, or in any
" wise to carry this or any law heretofore made,
" and at the time in force, for the encouragement
" of planting, or the preservation of trees, into
" execution, as a justice of the peace, he shall be
" subject to the like penalty, to be recovered in
" the like manner as is enacted respecting any
" justice of the peace who shall wilfully neglect
" or refuse to carry into execution any law re-
" lative to the linen or hempen manufactory.

“ 5th. Provided always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to any persons who hold or shall hold land, by virtue of a lease for lives renewable for ever, in respect of such land, or to any trees, wood, or underwood, growing on the same, nor to affect any person in respect of any trees which have been or shall be planted and registered in pursuance of, and under the provisions of any law heretofore made in this kingdom for the encouragement of planting.”*

* By a law of the fifth of George III. in Ireland, the property of trees planted by tenants, and registered at the quarter sessions in a manner prescribed by the said Act, is vested in them. But the landlord has the right of pre-emption, upon a just valuation by a jury,—and by the laws of the fifteenth and sixteenth of his present Majesty, recited in this Act, persons convicted before a justice of peace, in a manner therein prescribed, of lopping of, or cutting a tree, shall be fined in a sum not exceeding five pounds, and upon non-payment thereof, shall be committed for six months to prison.

A seventh part of the landed property of Ireland, it has been calculated, is held under the tenure of leases of lives renewable upon fines for ever.—This tenure was first introduced in Ireland soon after the Revolution, by the late Duke of Ormond, who was much in debt, that he might raise large sums by fines, and thus borrow money at the expence of posterity; and these tenants are excepted from the provisions of this law. History of the principal Transactions of the Irish Parliament, vol. 1. page 366.

The above abridgement comprises the substance of the principal laws that have passed in Ireland, for inclosing, reclaiming, and improving lands; together with the plantation system, comprised in the short space of a few leaves. And accurate references are made to the pages of the Irish Statute Book, printed in 1767, by the order of Parliament, under the revision and sanction of the judges.

Laws which have had the greatest effect as to inclosures: and which, when properly disseminated, generally known and promulgated, will also have, it is to be presumed, a similar effect upon plantations, and render Ireland in future, what it was in former ages, a planted and well wooded country, where hedge-rows may clothe and decorate the land; and timber be rendered, as in England, one of the most valuable national productions.

POSTSCRIPT.

THE preceding sheets, were shewn to the great Public Character, to whom they are addressed before publication: as well as to Sir John Sinclair; upon receiving a note from the latter, that they might be conducive to throw some light upon a great national question now depending, by displaying the system of inclosures, adopted in Ireland, in the two last reigns; they were delivered to Mr. Nicol; who from a laudable zeal to promote the important measure now in contemplation, had urged the printing of this compilation.

It has however been observed by some other intelligent gentlemen, to whom those Acts of Parliament had been shewn; that as there were few commons in Ireland; and tracts of waste lands, with common, and mixed rights and properties, like those in England; the system adopted *there* would be of little service; and few principles derived from thence, would be of any utility in this country.

The difference between these islands, in this respect, is to be traced from the operation of two Irish Statutes:

An act for *joint tenants* of the 33d of Henry the

8. c. 10. whereby, all tenants in common, are compelled by writ *de participatione facienda* to make partition of such lands as they then held or should hereafter hold; or by a writ to be devised in the chancery, in like manner and form, as co-parceners, were obliged to make division of their properties by common law.

And also, by an Act in 1697, *for the more easy obtaining partitions of lands in co-parcenary, joint-tenancy, and tenants in common*; whereby, upon a writ of partition being served, and not duly complied with in forty days, the court from whom the writ issued may proceed to determine the title; and order the sheriff, or his deputy, to make a division of the lands accordingly.

This law, which was rendered perpetual in 1707-8, enacts, that where the mears or bounds, between properties shall have been ascertained by a writ of partition, perambulation, or otherwise; good quickset ditches shall be made, at the expence of the tenants, if the lands are leased for sixty years, or for ever; if for three lives, or twenty-one years unexpired, by their joint expence; and if for a lesser term, at the *sole* expence of the landlord.

This last statute accords so nearly with the Scotch Act for general inclosures in 1695, that it appears almost to have been copied from that statute; and therefore that law which has been communicated by the favour of the President of

the Board of Agriculture, is annexed to this compilation.

Sir John Sinclair remarks upon this Scotch Act, that it were to have been wished, that commissioners had been appointed, as they generally are, by private Acts in England, to aid the Court of Sessions, in their determinations.

This regulation was adopted in Ireland in 1732, and as it is presumed that he had not seen those Irish laws, it reflects great honour upon his foresight, proves the unity of truth; and shews that men of sense engaged in the same inquiries, with similar sagacity, generally agree in the same conclusions.

It is certain, however, that the advantage of a general system of inclosure, will depend principally upon the arrangements that shall be adopted for the cultivation of waste lands,* that a similar regulation might be expedient, to that which Lord Bacon sup-

* It had been a practice, and is still recommended by some intelligent men in the south of Ireland, to improve waste lands, covered with furze, heath, and fern, by burning the soil, in April; spreading the ashes in July, sowing the land with turnips, and after ploughing it, the next spring with potatoes, without any other manure.

Afterwards to lay it down in pasture till it has regained strength, to yield crops of grain, in regular rotation; and then in subsequent years, if the soil is light, to sow it with grass seeds, or barley, or with oats if it be strong and heavy. And this practice is recommended in p. 47. of the first Report upon waste lands.

poses to have taken place in 1489, by an Act for maintaining farming houses with twenty acres of ground, and by a competent provision of convenient land, to be annexed to them for ever; though Mr. Anderson seems to question this great man's authority upon this statement.*

The Irish system of inclosing is certainly very plain and obvious; for, it is no more than vesting those powers in the arbitrations of commissioners, impartially nominated by a court of equity, who enforce their awards; which *here* are legalized in each case, by the expensive arrangements and provisions of a private act of parliament.

That system which shall, however, accomplish this great national object, with the least possible expence, is most ardently to be desired at this eventful and formidable crisis—a crisis as gloomy, perhaps, as that of 1696; and which will require proportionable exertions, and, perhaps, equal abilities, to extricate us from our exigencies and ca-

But it is conceived, that this practice is highly pernicious, unless the land is well manured with lime, &c. after burning; causing it to work out the heart of the soil by being thus forced; besides this method of burning can be practised by the head landlords in Ireland only, as burning lands is prohibited to tenants by two Irish laws, the 17th of Geo. II. c. 10. amended by 1 Geo. III. c. 17. under the penalty of forty shillings an acre, for the quantity of lands burned, to be levied, upon due proof, by a justice of peace.

* Anderson's Origin of Commerce, v. 1. p. 525.

lamities in the similar year, and correspondent period of the present century.*

Notwithstanding the great encouragement given to planting, by vesting the whole property of the trees planted by them in the tenants, by a law in

* The arduous period of 1696, before the treaty of Ryswick had restored the blessings of peace and plenty to this country, is thus happily described by the masterly pen of Dr. Somerville: and it contains also an invaluable account of the political labours of Mr. Locke, who was made a lord of trade, and of Sir Isaac Newton, master of the mint, by Lord Halifax, for their counsel and assistance: the latter appears from the Lords' journal, v. 16, p. 147. to have been examined by that assembly in 1696-7, upon the general recoinage.

“ The patriotic exertions of the Commons in 1696 deserve to be remembered with the warmest gratitude by posterity. Admiration and esteem are excited, when we consider the ingenious expedients *then* devised to deliver the nation from the most pressing embarrassments.

“ While their success inculcates this maxim, that the patriot ought never to despair, under the darkest and most perplexing aspect of public affairs. The measures they pursued, exhibit specific remedies for similar calamities.

“ These resolutions, the subsequent measures, and their accomplishment, consecrate the name of Mr. Montague, the chancellor of the exchequer, to distinguished and everlasting applause.

“ The names, of Sir Isaac Newton, and of Mr. Locke, are also transmitted to our gratitude, for their aid and assistance to Mr. Montague in this arduous business; and it is a pleasure to publish every circumstance which adds to the merit of those names, whose memory is so dear to every friend of science and of virtue.”

1765; some further legislative provisions are wanting in Ireland, for the preservation of the after-growth, and the reproduction of woods, similar to those regulations of the English statute of the 35th year of Henry VIII. whereby twelve of the best standrills were to be left on every acre of coppice, at least, with a due proportion of underwood.

According to Mr. Hayes's calculations, if a tenant plants a tree, and preserves it, at the expence of two shillings, his profit may, in twenty years, by felling it under the law in 1765, amount to twenty shillings.

Hence it follows; that if a tenant were to make the most of two hundred pounds, if it were to accumulate by simple and compound interest, or by interest upon interest, it would, in twenty-eight years, amount only to eight hundred pounds, as the capital in the case of compound interest doubles every fourteen years.

But if he were to lay it out in planting hedges, it would produce two thousand pounds, or near treble that sum, within the term of thirty-one years, the usual lease in Ireland.

Mr. Hayes has given to his countrymen some valuable observations, founded upon his own experience;* and judicious rules for preserving the

* A Practical Essay on Planting, and the management of Woods and Coppices, by Samuel Hayes, Esq. M. R. I. A. p. 82, to p. 90. Dublin: printed by W. Sleater, and sold by Allen and West, Paternoster-Row, London.

after-growth, conformable to the system adopted by the greatest planter hitherto known in England, the Earl Bathurst, who lived to a respected old age, so as to derive a profit of near a thousand pounds a year from his judicious management of his woods, and preserving the after-growth of the trees raised by himself, in his princely plantations in Gloucestershire.

The following Statute was alluded to in p. 53 of
of the Postscript.

*" An Act concerning the dividing of Commonities,
" passed in the Parliament of Scotland, the
" 17th July, 1695.**

" Our Sovereign Lord, with advice and consent
" of the Estates of Parliament, for preventing the
" discords that arise about commonities, and for
" the more easie and expedit deciding thereof in
" time coming, statutes and ordains :

" That all commonities (excepting the common-
" ties belonging to the king and royal burrows in
" burgage) may be divided at the instance of *any*
" having interest, by summons raised against all
" persons concerned, before the Lords of Session,
" who are hereby empowered to discuss the rele-

* The 8th of Anne, c. 20. for inclosing Ripley commons, in Hampshire ; and the 12th of Anne, c. 2. for inclosing lands in the parish of Thromarton, alias, Farmington, in Gloucestershire, are the oldest *private* acts of inclosure that can be traced in the records of the British Parliament.

The first of which is merely designed to confirm an amicable arrangement between the parties concerned, and will, it is said, appear in the next Report upon waste lands.

This information was given by Sir John Sinclair, after the preceding pages had been printed ; who has thus laudably contributed his intelligent aid to laborious speculations, far more deserving of public notice and attention at this awful crisis ; than the invidious invectives, desultory declamations, or paltry pasquinades of pensioned pamphleteers, of rash and recreant reformers.

"vancy, and to determine upon the rights and interests of all parties concerned.

"And to value and divide the same, according to the value of the rights and interests of the several parties concerned.

"And to grant commissions to sheriffs, stewarts, baillies of regalie and their deputies, or justices of peace, or others, for perambulating and taking all other necessary probation.

"Which commissions shall be reported to the said Lords, and the said processes ultimately determined by them; and where mosses shall happen to be in the said commonities, with power to the said Lords to divide the said mosses amongst the several parties having interest therein, in manner foresaid:

"Or in case it be instructed to the said Lords, that the said mosses cannot be conveniently divided, his majesty, with consent foresaid, statutes and declares, that the said mosses shall remain common, with free Ish (or egress) and Entry thereto, whether divided or not.

"Declaring also, that the interest of the heretors, having right in the said commonities, shall be estimat according to the valuation of their respective lands or properties.

"Which divisions are appointed to be made, of that part of the commonity, that is next adjacent to each heretor's property."

THE END.

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